

Application No.: 10/039957

Case No.: 53325US002

REMARKS§ 103 Rejections

Claims 1, 4, 6, 7, 9, 12, 15, 17, 21-23 and 27-29 stand rejected under 35 USC § 103(a) as being unpatentable over Eigenmann (U.S. Patent No. 4,072,403).

Each of the independent claims, i.e. claims 1, 12 and 28-28 recite **retroreflective pavement elements in a predefined pattern interconnected by a carrier web selected from the group consisting of a film or nonwoven web of a water-soluble or water dispersible polymeric material, and a biodegradable material.**

In the Office Action of 3-25-2004, the Examiner rejected claims under 35 U.S.C. (b) as being anticipated by Eigenmann. The Examiner stated that "Eigenmann discloses a marker and method of making pavement markers including forming an array of discrete retroreflective elements (G' of Fig. 8 for example) in a predefined pattern interconnected by a carrier web (16'). The elements (G) are bonded to the web (16'). There is a frangible connection (14') between a plurality of the pavement elements and the carrier web (Fig. 7, for example)."

In response to this rejection, the Applicant explained that reference numeral 16' of Eigenmann is a thin layer of transparent polymeric binder that binds the microspheres to the underlying globule. This polymeric binder is not a carrier web (i.e. a web to carry the pavement elements), but rather a requisite component of the pavement marker.

**Now, the Examiner has taken the position that 14' is a carrier web.**

Eigenmann relates to forming a sheet of material (L) into transparent globules. These transparent globules may be formed into discrete elements (such as shown in Figure 1) or the globules may be interconnected via 14' (as shown in Figure 5). Regardless of the embodiment, the globules (G') and the interconnected regions (14') are made from the same material. As described at column 3, lines 16-24, "sheet material L consists of a transparent polymeric material having a refractive index preferably comprises from 1.45 to 1.68 about. This material preferably consists of polymethylmethacrylate, or a copolymer of methylstyrene and methylmethacrylate, or a copolymer of styrene and acrylonitrile, or of polycarbonate, or also of an epoxy copolymer."

Accordingly 14' is NOT a carrier web, but rather a requisite part of the pavement marker. If one were to use a water-soluble, water-dispersible or a biodegradable material for 14', than the

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globules (G') would also consist of this same water-soluble, water-dispersible or a biodegradable material. This would result in the discrete retroreflective elements also deteriorating in a relatively short period of time, rather than merely the connection between the retroreflective elements and the carrier web deteriorating.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Respectfully submitted,

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